

REMARKS

This Amendment is filed in response to the Final Office Action mailed October 29, 2009. In this Amendment, claim 25 is amended and claim 29 is canceled, claims 1-12 were previously withdrawn, claims 14-17, 19-21 and 24 are unchanged. Following entry of this amendment, claims 14-17, and 19-28 shall be pending.

I. CLAIM REJECTION UNDER 35 USC § 112

Claim 29 was rejected as being unsupported by the specification. Without conceding to the merits of this rejection, and solely to speed prosecution, claim 29 has been canceled.

II. CLAIM REJECTIONS UNDER 35 USC § 102

Claims 13 and 17-21, and 25-28 have been rejected under § 102(b) as being anticipated by US 5,669,931 ("*Kupiecki*"). However, *Kupiecki* fails to anticipate these claims.

Kupiecki relates to a vaso-occlusive coil that has a distal end that forms a secondary configuration when ejected from a delivery catheter. The Examiner is taking the stance that the distal portion 26 of the *Kupiecki* coil constitutes a coupling element and the proximal portion 24 constitutes the proximal end of the device, as recited by the claims.

This interpretation places the *Kupiecki* coupling element on the distal end of its device, rather than on the proximal end of the device as claimed. Claims 13 and 25 clearly recite providing a filamentous endovascular device having a proximal end and a coupling element attached to the proximal end. Claims 17-21 depend from claim 13 and claims 26-28 depend from claim 25. Hence, none of the rejected claims are anticipated by *Kupiecki*.

Additionally, the *Kupiecki* "coupling element" is not attached to either end of the *Kupiecki* device. Rather, the distal portion of the *Kupiecki* device, which the Examiner is

using as its coupling element, slide freely within the delivery device. The *Kupiecki* specification clearly states that the second step of the purging process requires placing the distal end under saline solution and drawing saline in to relocate the device proximally of the end of the delivery catheter. There is no “attachment” or “coupling” of the *Kupiecki* implant to its delivery catheter.

Either of the aforementioned reasons is sufficient to traverse the § 102 rejections. Withdrawal of all rejections under § 102 is therefore respectfully requested.

III. REJECTIONS UNDER 35 USC § 103

The Examiner rejected Claims 14 and 22-24 as being unpatentable over *Kupiecki* in view of US 6,063,070 (“*Eder*”). Claims 14-22 all depend from claim 13, which has been shown to be patentable, above, and are therefore patentable as depending from a patentable base claim. These claims are independently patentable as well, despite the rejections under § 103.

For example, *Eder* pertains to a neck bridge that is electrolytically detached using DC current. An AC signal rides the DC current and triggers a sensing circuit upon detachment of the neck bridge. However, as discussed above, the *Kupiecki* device is not attached to its delivery catheter. It is free to slide within the catheter. As such, there would be no use for an electrolytic detachment system in *Kupiecki*. One skilled in the art would not be motivated to combine these references. Moreover, in order to concoct an electrical detachment-signaling device for use with the *Kupiecki* device, significant engineering activity would be necessary. *Eder* teaches piggybacking an AC signal onto a DC current that does not exist in *Kupiecki*. As such, withdrawal of these rejections is respectfully requested.

The Examiner rejected Claims 15 and 16 as being unpatentable over *Kupiecki* in view of US 6,224,609 (“*Resseman*”). Claims 15 and 16 depend from claim 13, which has been shown to be patentable, above, and are therefore patentable as depending from a patentable base claim. These claims are independently patentable as well, despite the rejections under § 103.

For example, the Examiner states *Kupiecki* discloses providing a substantial restriction to the flow of liquid having a viscosity greater than or equal to a predetermined viscosity. No further explanation is provided as to where in *Kupiecki* this is disclosed. The device itself, is free to slide within the device, therefore, it would appear it fails to provide any resistance to flow. As such, the Examiner has failed to show that the combination of these references renders the claimed invention obvious. Withdrawal of these rejections is therefore respectfully requested.

Claims 25 and 29 are rejected as being unpatentable over U.S. 6,514,264 ("Naglireiter") in view of U.S. 5,593,412 ("Martinez"). Claim 29 has been canceled for independent reasons. The Examiner cites *Martinez* as disclosing a delivery device with a tip that softens when exposed to liquids. However, *Martinez* does not disclose reducing the friction between the coupling element and the deployment tube prior to introducing the device into a patient. This distinction is implied by the order of the steps in the claim, but, in order to make the distinction more clear, claim 29 has been amended to further recite this feature. Claim 25, as amended is not rendered obvious by *Naglireiter* in view of *Martinez* and it is respectfully requested that this rejection be withdrawn.

CONCLUSION

In view of the foregoing, it is submitted that pending claims 13-17 and 19-28 are now in condition for allowance. Hence, an indication of allowability is hereby requested. However, in order to ensure continued evaluation of the claims, a Request for Continued Examination is being filed herewith.

If for any reason direct communication with Applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below listed telephone number.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 50-2809.

Respectfully submitted,



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